



7020-02

## **INTERNATIONAL TRADE COMMISSION**

### **Investigation No. 337-TA-814**

#### **Certain Automotive GPS Navigation Systems, Components**

#### **Thereof, and Products Containing Same**

#### **Determination Not to Review**

#### **ALJ Order Nos. 8 And 9; Termination of the Investigation Based on a Withdrawal of the Complaint**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") Order No. 8 denying a motion for a show cause order and an initial determination ("ID") (Order No. 9) terminating the investigation based on complainant's withdrawal of the complaint.

**FOR FURTHER INFORMATION CONTACT:** Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3104. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can

be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on November 23, 2011, based on a complaint filed by Beacon Navigation GmbH of Zug, Switzerland ("Beacon"). 76 *Fed. Reg.* 72443 (Nov. 23, 2011). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain automotive GPS navigation systems, components thereof, and products containing the same by reason of infringement of certain claims of United States Patent Nos. 6,374,180; 6,178,380; 6,029,111; and 5,862,511.

The notice of investigation named as respondents Audi AG of Ingolstadt, Germany; Audi of America, Inc. of Auburn Hills, Michigan; Audi of America, LLC of Herndon, Virginia; Bayerische Motoren Werke AG of Munich, Germany; BMW of North America, LLC of Woodcliff Lake, New Jersey; BMW Manufacturing Co., LLC of Greer, South Carolina; Chrysler Group LLC of Auburn Hills, Michigan; Ford Motor Company of Dearborn, Michigan; General Motors Company of Detroit, Michigan; Honda Motor Co., Ltd. Of Tokyo, Japan; Honda North America, Inc. an American Honda Motor Co., Inc., both of Torrance, California; Honda Manufacturing of Alabama, LLC of Lincoln, Alabama; Honda Manufacturing of Indiana, LLC of Greensburg, Indiana; Honda of America Manufacturing, Inc. of Marysville, Ohio; Hyundai Motor Company of Seoul, South Korea; Hyundai Motor America of Fountain Valley, California; Hyundai Motor Manufacturing Alabama, LLC of Montgomery, Alabama; Kia Motors Corp. of Seoul, South Korea; Kia Motors America, Inc. of Irvine, California; Kia Motors Manufacturing Georgia, Inc. of West Point, Georgia; Mazda Motor Corporation of Hiroshima, Japan; Mazda Motor of America, Inc. of Irvine, California; Daimler AG of Stuttgart, Germany; Mercedes-Benz

USA, LLC of Montvale, New Jersey; Mercedes-Benz U.S. International, Inc. of Vance, Alabama; Nissan Motor Co., Ltd. of Yokohama-shi, Japan; Nissan North America, Inc. of Franklin, Tennessee; Dr. Ing. H.c. F. Porsche AG of Stuttgart, Germany; Porsche Cars North America, Inc. of Atlanta, Georgia; Saab Automobile AB of Trollhattan, Sweden; Saab Cars North America, Inc. of Royal Oak, Michigan; Suzuki Motor Corporation of Hamamatsu City, Japan; American Suzuki Motor Corporation of Brea, California; Jaguar Land Rover North America, LLC of Mahwah, New Jersey; Jaguar Cars Limited of Coventry, United Kingdom; Land Rover of Warwickshire, United Kingdom; Toyota Motor Corporation of Toyota City, Japan; Toyota Motor North America, Inc. of Torrance, California; Toyota Motor Engineering & Manufacturing North America, Inc. of Erlanger, Kentucky; Toyota Motor Manufacturing, Indiana, Inc. of Princeton, Indiana; Toyota Motor Manufacturing, Kentucky, Inc. of Georgetown, Kentucky; Toyota Motor Manufacturing Mississippi, Inc. of Blue Springs, Mississippi; Volkswagen AG of Wolfsburg, Germany; Volkswagen Group of America, Inc. and Volkswagen Group of America Chattanooga Operations, LLC, both of Herndon, Virginia; Volvo Car Corporation of Goteborg, Sweden; and Volvo Cars of North America, LLC of Rockleigh, New Jersey.

On February 29, 2012, the Commission determined not to review an ID amending the complaint and notice of investigation to terminate General Motors Company from the investigation and replace it with General Motors LLC of Detroit, Michigan. *77 Fed. Reg.* 13350 (Mar. 6, 2012).

Complainant filed a motion to withdraw its complaint on April 13, 2012. On April 20, 2012, the respondents stated that they did not oppose the motion to terminate, but requested that the motion not be granted until it was determined if Beacon violated Commission Rules

210.12(a)(9)(iii) and/or 210.4(c) concerning the veracity of licensing information in its complaint. On the same day, respondents filed a motion requesting that the ALJ *sua sponte* issue a show cause order directing Beacon and its counsel to (1) identify all licensees that Beacon and its counsel are currently aware of and knew of at the time the Complaint was filed, (2) provide details of Beacon's pre-filing investigation, and (3) show cause why Beacon did not violate Commission Rule 210.4(c) by identifying only MiTAC International Inc. ("MiTAC") as a licensed entity.

On May 8, 2012, the ALJ issued an ID (Order No. 8) denying the motion for a *sua sponte* show cause order, as well as two other motions to recover from complainant costs incurred in preparing for cancelled depositions. On the same day, the ALJ issued Order No. 9, an ID granting complainant's motion to terminate the investigation based on a withdrawal of the complaint.

On May 15, 2012, several respondents filed a joint petition for review of both orders, arguing that there is a split in Commission precedent concerning the application of the safe harbor provision, which is at issue in Order 8. They petitioned for review of Order 9 to enable the Commission to grant the relief sought with respect to Order No. 8. Petitioners do not oppose termination of the investigation on any other ground. On May 22, 2012, the Commission investigative attorney and the complainant each filed a response in opposition to the petition.

Upon consideration of the petition and the responses thereto, the Commission has determined not to review either ALJ Order. The Commission does not agree that there is a split in Commission precedent regarding application of the safe harbor provision of 19 C.F.R. § 210.4(d)(1). The Commission investigations cited by petitioners each represent the exercise of discretion by the presiding ALJ in determining whether to issue a show cause order. *See Certain*

*Point of Sale Terminals and Components Thereof*, Inv. No. 337-TA-524, Order No. 40 (April 11, 2005); *Certain Weather Stations and Components Thereof*, Inv. No. 337-TA-537, Order No. 8 (Oct. 12, 2005); and *Certain Insulin Delivery Devices*, Inv. No. 337-TA-572, Order No. 5 (Jan. 29, 2007).

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in sections 210.21 and 210.42(h) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.21, 210.42).

By order of the Commission.

Lisa R. Barton

Acting Secretary to the Commission

Issued: June 7, 2012

[FR Doc. 2012-14325 Filed 06/12/2012 at 8:45 am; Publication Date: 06/13/2012]